

2006 CarswellOnt 4689  
Ontario Superior Court of Justice (Divisional Court)

Habte-Mariam v. Toronto Community Housing Corp.

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**Berhane Habte-Mariam (Plaintiff) and Toronto  
Community Housing Corporation (Defendant)**

E. Then J.

Heard: July 20, 2006  
Judgment: July 21, 2006  
Docket: 232/06

Counsel: Berhane Habte-Mariam, for himself  
Douglas Levitt, for Defendant

Subject: Property; Civil Practice and Procedure

**Related Abridgment Classifications**

For all relevant Canadian Abridgment Classifications refer to highest level of case via History.

**Real property**

V Landlord and tenant  
V.20 Residential tenancies  
V.20.h Rent  
V.20.h.ii Rent review  
V.20.h.ii.C Practice and procedure

**Headnote**

**Landlord and tenant --- Residential tenancies — Rent — Rent review — Practice and procedure**

**Table of Authorities**

**Statutes considered:**

*Tenant Protection Act, 1997*, S.O. 1997, c. 24  
s. 196 — referred to

***Then J.:***

1 The tenant seeks leave for late filing of a notice of appeal of the order made on February 21, 2006 which is a decision made on the request to review the order of February 13, 2006.

2 He maintains that he has intended to appeal both orders and did not appeal in a timely manner because he was advised that he should not do so until all matters before the Tribunal are completed.

3 I am satisfied that the tenant has intended to appeal and did not do so in a timely manner because of misinformation. I am also satisfied he did not appeal the February 13, 2006 order because of inexperience.

4 The reasons of the Tribunal dismissing the complaint appear to turn on findings of fact and credibility specifically with respect to the tenant's complaints about the conduct of the tenant in unit 301. The notice of appeal proffered for late filing does contain alleged errors of law of a general nature pertaining to the ignoring or exclusion of relevant evidence. However, the explanations of the grounds of appeal by the tenant offered during oral argument did not indicate that relevant evidence was either excluded or ignored which could reasonably affect the findings of fact and credibility made by the Tribunal so as to found an error of law as required by s. 196 of the *Tenant Protection Act*.

5 The tenant maintains that harassment continues disrupting his quiet enjoyment of his tenancy. If that is so, a new application to the Tribunal can be made by the tenant.

6 However, the application for leave to file a notice of appeal with respect to the orders of February 13 and February 21, 2006 must be dismissed. The landlord seeks no costs and none are awarded.

***Then J.:***

The application for leave to file a notice of appeal is dismissed for reasons attached to the motion record.